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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,054	11/19/2000	Anthony L. Alles	NT-6	6735

7590 01/30/2004

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EXAMINER

FLYNN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2153

13

DATE MAILED: 01/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/600,054

Applicant(s)

ALLES ET AL.

Examiner

Kimberly D Flynn

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36, 40, 41, 89-95 and 100-102 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 27, 89 and 100 is/are rejected.
- 7) ☒ Claim(s) 2-35, 40-41, 90-95, and 101-102 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9 and 10.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to an Amendment filed November 10, 2003. Claims 1-35, 40-41, 89-95, and 100-102 are presented for further consideration.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 27, 89, and 100, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,466,976. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter as follows:

Application #09/600,054

Patent # 6,466,976

Claims 1 and 89  A method of providing a desired set of service policies to each of a plurality of subscribers, the method comprising:	Claim 12  A method of providing a desired set of service policies to each of a plurality of subscribers, comprising:
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<p>Identifying a plurality of processing cells rules which provide a set of service policies desired by each subscriber;</p> <p>Configuring an internet service node with the processing rules corresponding to each of the subscribers;</p> <p>Receiving data in the internet service node;</p> <p>Determining in the internet service node a specific subscriber to whom the receiver data relates to; and</p> <p>Applying in the internet service node the plurality of processing rules related to the determined specific subscriber, wherein the applying is performed after the determining.</p>	<p>Specifying a desired set of service policies for each of the plurality of subscribers;</p> <p>Configuring an ISN with processing rules;</p> <p>Receiving a plurality of bit groups from a subscriber comprised in the plurality of subscribers;</p> <p>Determining a data flow to which each the plurality of packets relates to; and</p> <p>Applying the bandwidth prioritization policy, and the bandwidth allocation policy of the action associated with the classifier matching the determined data flow to which the plurality of packets relate.</p> <p><i>The distinctions would have been obvious because subject matter claimed in the instant application is fully disclosed in the patent. Specifically the only distinction of the subject matter is that the patent further describes the actions associated with the classifier. The methods of both the instant application and the patent are functionally equivalent.</i></p>
<p>Claim 27 and 100,</p>	<p>Claim 12</p>

<p>A method of providing a desired set of service policies to each of a plurality of subscribers, the method comprising:</p> <p>Providing an internet service node as an edge router;</p> <p>Specifying a desired set of service policies for each of the plurality of subscribers;</p> <p>Translating each of the desired service policies into processing rules, wherein each processing rule comprises a classifier and an associated action, wherein the classifier identifies data flows to which the associated action is to be applied;</p> <p>Configuring the ISN with the processing rules;</p> <p>Receiving a plurality of bit groups from a subscriber comprised in the plurality of subscribers;</p> <p>Generating a plurality of packets from data contained in the plurality of bit groups, wherein each of the plurality of packets can be associated with a data flow generated by an application of the</p>	<p>A method of providing a desired set of service policies to each of a plurality of subscribers comprising:</p> <p>Providing an internet service node (ISN) as an edge router;</p> <p>Specifying a desired set of service policies for each of the plurality of subscribers;</p> <p>Translating each of the desired service policies into processing rules, each of the processing rules including a classifier and an action associated with the classifier, the classifier including identification of data flows, and the action associated with the classifier including a bandwidth allocation policy that are to be applied to packets associated with the data flows identified by the classifier,</p> <p>Configuring the ISN with the processing rules;</p> <p>Receiving a plurality of bit groups from a subscriber comprised in the plurality of subscribers;</p> <p>Generating a plurality of packets from data contained in the plurality of bit groups, wherein each of the plurality of packets can be associated with a data flow generated by an application of the</p>
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<p>subscriber;</p> <p>Determining a data flow to which each the plurality of packets relates to; and applying the actions associated with classifiers matching the data flow determined in (g),</p> <p>Whereby each of the plurality of subscribers are provided the corresponding desired set of service policies.</p>	<p>subscriber;</p> <p>Determining a data flow to which each the plurality of packets relates to; and applying the bandwidth prioritization policy, and the bandwidth allocation policy of the action associated with the classifier matching the determined data flow to which the plurality of packets relate.</p> <p>Whereby each of the plurality of subscribers are provided the corresponding desired set of service policies.</p>
	<p><i>The distinctions would have been obvious because subject matter claimed in the instant application is fully disclosed in the patent. Specifically the only distinction of the subject matter is that the patent further describes the actions associated with the classifier. The methods of both the application and the patent are functionally equivalent.</i></p>

***Allowable Subject Matter***

4. Claim 2-35, 40-41, 90-95, and 101-102 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

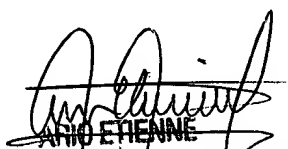
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D Flynn whose telephone number is 703-308-7609. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kimberly D Flynn  
Examiner  
Art Unit 2153

KF  
January 25, 2004

  
ARJO ETIENNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100